

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

JAMES W. THOMAS

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PLAINTIFF

v.

Civil No. 2:22cv88-HSO-RHWR

**NATIONSTAR MORTGAGE, LLC
d/b/a MR. COOPER**

DEFENDANT

**ORDER REQUIRING PLAINTIFF TO FILE AN AMENDED COMPLAINT
ESTABLISHING FEDERAL SUBJECT-MATTER JURISDICTION**

This cause is before the Court *sua sponte*, following a review of Plaintiff James W. Thomas's Complaint [1]. The Complaint alleges federal subject-matter jurisdiction by reason of alleged diversity of citizenship under 28 U.S.C. § 1332. Section 1332 provides that "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States." 28 U.S.C. § 1332(a)(1). Because the Complaint does not demonstrate the citizenship of the parties for purposes of diversity jurisdiction, Plaintiff must file an amended complaint on or before July 22, 2022.

Where jurisdiction is based on an allegation of diversity of citizenship, the citizenship of the parties must be "distinctly and affirmatively alleged." *Toms v. Country Quality Meats, Inc.*, 610 F.2d 313, 316 (5th Cir. 1980). The basis of jurisdiction cannot be established argumentatively or by mere inference. *Mullins v.*

Testamerica Inc., 300 F. App'x 259, 260 (5th Cir. 2008) (remanding where defendant's citizenship had not been sufficiently pleaded for diversity purposes).

The Complaint states that "Thomas is an adult resident of the State of Kentucky." Compl. [1] at 1. Residence is not the equivalent of citizenship.

"[C]itizenship requires residency and an intent to return or remain in the state."

Preston v. Tenet Healthsystem Mem. Med. Ctr., 485 F.3d 804, 815 (5th Cir. 2007). A person has only one citizenship for diversity purposes at a time, even though he or she may have several residences in different states. *See* 13E Wright & Miller, Federal Practice and Procedure §3612 (3d ed. 2013). In an amended complaint, Plaintiff shall demonstrate his citizenship for purposes of diversity jurisdiction.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, on or before July 22, 2022, Plaintiff must file an amended complaint that demonstrates a basis for federal subject-matter jurisdiction.

SO ORDERED AND ADJUDGED, this the 14th day of July, 2022.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE